House
REPUBLICAN
Conference

FloorPrep

Legislative Digest **Thursday, November 4, 1999**

J.C. Watts, Jr.
Chairman
4th District, Oklahoma

House Meets at 10:00 a.m. for Legislative Business

Anticipated Floor Action:

H.Con.Res. 214—Sense of Congress that Schools Should Use Phonics
H.R. 1693—Clarifying the Overtime Exemption for Firefighters
H.J. Res. 75—FY 2000 Continuing Resolution
H.R. 3196—FY 2000 Foreign Operations Appropriations Act
S. 900—Gramm-Leach-Bliley Act (Conference Report)

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Bills Considered Under Suspension of the Rules

Floor Situation: The House will consider the following two bills under suspension of the rules as its first order of business today. Each is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

H.Con.Res. 214 expresses the sense of Congress that schools should use direct systematic phonics instruction in teaching students to read and that phonics instruction should be included in pre-teaching requirements so teachers can effectively teach reading. Phonics instruction conveys the knowledge of the 26 alphabetical letters, the 44 English speech sounds the letters represent, and the 70 most common spellings for those speech sounds. The National Institute of Child Health and Human Development has conducted extensive research on reading and has concluded that phonemic instruction is essential to effective reading programs. The resolution was introduced by Mr. McIntosh and was not considered by a House committee.

H.R. 1693—Clarifying the Overtime Exemption for Firefighters amends the 1938 Fair Labor Standards Act to clarify the overtime exemption for employees engaged in fire protection activities. Specifically, the bill defines an employee in fire protection activities as a firefighter, paramedic, emergency medical technician (EMS), rescue worker, ambulance personnel, or hazardous materials worker who (1) is trained in fire suppression; (2) has the legal authority to engage in fire suppression; (3) is employed by a municipality, county, fire district, or state fire department; and (4) engages in preventing, controlling, and extinguishing fires or responding to emergency situations where life, property, or the environment is at risk.

The Fair Labor Standards Act (FLSA) requires employers to pay workers overtime compensation at a rate of one and one-half their regular hourly rate for every hour worked in excess of 40 hours over seven days. Section 7(k) of the FLSA exempts employees of public agencies who engage in fire protection activities from this overtime requirement until such employees have worked 212 hours within a 28-day period. Courts have recently interpreted that EMS personnel do not fall into the 7(k) exemption because the bulk of their time is spent engaged in non-fire protection activities. Consequently, several lawsuits have been brought by EMS personnel against employers for overtime pay. A CBO estimate was unavailable at press time. H.R. 1693 was introduced by Mr. Ehrlich *et al.* and was reported by the Education & the Workforce Committee by voice vote on November 3, 1999.

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H.J. Res. 75—FY 2000 Continuing Resolution

Floor Situation: The House will consider H.J. Res. 75 after it finishes considering H.R. 1693. Yesterday, the Rules Committee granted a rule to provide one hour of debate, equally divided between the chairman and ranking member of the Appropriations Committee, and waive all points of order against the resolution and its consideration. The rule provides one motion to recommit.

Summary: H.J. Res. 75 provides temporary funding—beginning November 6, 1999 and lasting until either November 10 or when the relevant appropriations bill is signed into law, whichever comes first—for federal programs for which the president has not signed a regular appropriations bill. The continuing resolution funds ongoing projects at current FY 1999 levels. It imposes currently existing terms and conditions on funding, prohibits any new projects or initiatives, and restricts high initial year funding distributions to states, foreign countries, or federal grantees. Recently, the House passed—and the president signed—an extension (H.J. Res. 73) to fund the government through November 5, 1999.

The joint resolution also includes a number of special provisions for the duration of the continuing resolution, such as:

* restricting disbursements for contributions to international organizations;

* extending the authority for several programs such as (1) Radio Free Asia, (2) the Overseas Private Investment Corporation, and (3) the federal flood insurance program;

* restricting initial obligations for most major activities of the District of Columbia;

* allowing agencies to spend funding to continue fixing the Year 2000 computer problem;

* allowing increased obligations for census activities;

* continuing the FY 1999 funding level for accounts funded under the FY 1999 Commerce/Justice/State appropriations bill that will change in the FY 2000 measure because of State Department reorganization; and

* continuing the authority of the Export-Import Bank to meet in the absence of a quorum.

A CBO cost estimate was unavailable at press time. H.J. Res. 75 was introduced by Mr. Young (FL) on November 4.

Views: The Republican Leadership supports passage of the measure. An official Clinton Administration viewpoint was unavailable at press time. However, press reports have indicated that he will sign another extension.

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H.R. 3196—FY 2000 Foreign Operations Appropriations Act

Floor Situation: The House will consider H.R. 3196 after it finishes considering H.J. Res. 75. Appropriations bills are privileged and may be considered any time three days after they are filed. Yesterday, the Rules Committee granted a structured rule providing one hour of general debate, equally divided between the chairman and ranking minority member of the Appropriations Committee. It makes in order one amendment by Mr. Young (FL), debatable for 20 minutes. Finally, the rule provides one motion to recommit, with or without instructions.

Summary: H.R. 3196 appropriates $12.7 billion in discretionary budget authority in FY 2000 for foreign assistance and export-financing programs. This amount is $1.5 million less than the conference report to H.R. 2606 (the bill eliminates $1.5 million in subsidy funding for the Agency for International Development's urban credit program). Of the total amount appropriated, the measure provides $599 million for export assistance, $7.5 billion for bilateral economic assistance, $3.5 billion for military assistance, and $1.1 billion for multilateral economic assistance.

Major funding initiatives in the conference report include:

* $2.7 billion for the Agency for International Development (AID);

* $3.4 billion for foreign military financing;

* $78 million for voluntary peacekeeping operations;

* $535 million for Eastern Europe and the Baltic States, including $150 million for Kosovo;

* $735 million for the former states of the Soviet Union;

* $715 million for child survival and disease elimination;

* $19.6 million for the International Fund for Ireland;

* $285 million for International Narcotics Control;

* $181.6 million for nonproliferation, anti-terrorism, and demining activities; and

* $235 million for the Peace Corps.

The bill also:

* recommends no less than $960 million for economic aid to Israel and no less than $735 million in aid to Egypt;

* withholds 50 percent of assistance provided for the government of Russia unless it ends nuclear and ballistic missile cooperation with Iran;

* renews for one-year the partial waiver of section 907 of the Freedom Support Act (*P.L. 102-511*), which bans all U.S. assistance to Azerbaijan;

* provides $35.8 million for the Global Environment Facility (GEF);

* caps funding for bilateral family planning assistance at $385 million and releases it on a monthly basis of 8.3 percent a month over 12 months; and

* provides $25 million for U.S. contributions to the United Nations Population Fund (UNFPA), but reduces that amount on a dollar-by-dollar basis for any amounts UNFPA spends on activities in China.

Major Changes from the Conference Report. H.R. 3196 includes several changes from the vetoed H.R. 2606, most of which modify legislative language or earmark funding within accounts. Specifically, these changes:

* earmark $241 million for threat reduction from the Independent States account. Currently, the account is funded at $750 million;

* increase funding for the African Development Fund by $1 million, for a total of $78 million;

* eliminate subsidy funding for the Agency for International Development's (AID) urban credit program but continue to fund operating expenses. The conference report provided $1.5 million in subsidies for the program;

* mandate that the State Department construct an international narcotics law enforcement center in Roswell, New Mexico;

* remove recommendations for specific funding levels for Colombian anti-narcotics programs that were included in the conference report;

* earmark $14.7 million from funding for the Independent States for maternal and neo-natal health programs in Russia and the independent states of the former Soviet Union;

* mandate that funding be made available to initiate programs to prevent and treat HIV/AIDS in Africa and India. This initiative was not included in the conference report;

* eliminate funding for the African Development Bank. The conference report included $1 million;

* prohibit funding appropriated in the bill for the United Nations Man and the Biosphere program and the World Heritage Fund;

* earmark $8 million from FY 1999 emergency supplemental funds for emergency disaster funding for Costa Rica. This was not included in the conference report;

* earmark $13 million from the bilateral debt restructuring fund to allow the U.S. to forgive a portion of the debt owed by countries with large areas of rainforests in return for their commitment to protect these areas. The bill provides a total of $33 million for the bilateral debt restructuring fund;

* eliminate conference report language requiring prior notification of Export-Import Bank transactions over $10 million;

* require the Appropriations Committee to be advised before any security assistance is provided to Indonesia. The measure also deletes conference report language that imposed sanctions on U.S. aid to the Indonesian government;

* clarify that sanctions against Serbia do not affect assistance to Montenegro and Kosovo; and

* eliminate the AID working capital fund, which was included in the conference report but not in the House-passed bill.

The House passed the original foreign operations appropriations bill, H.R. 2606, by a vote of 385-35 on August 3, 1999. The Senate approved its version of the measure (S. 1234) by a vote of 97-2 on June 30, 1999. The House passed the conference report by a vote of 214-211 on October 5 and the Senate passed it on October 6. President Clinton vetoed the measure on October 18.

Amendments: As stated above, the rule makes in order the following amendment to H.R. 3196:

Mr. Young will offer an amendment, debatable for 20 minutes, to fully fund the president's request for additional spending to implement the Wye River Accord. Specifically, the amendment provides a total of $1.83 billion for this purpose, including (1) $400 million from the Economic Support Fund (ESF) for the West Bank and Gaza; (2) $1.2 billion in military support for Israel; (3) $200 million for Jordan, including $50 million in economic support and $150 million in military support; and (4) $25 million in military support for Egypt. All of this funding is designated as emergency spending.

To offset the effect of these new outlays on federal spending in FY 2000, the amendment changes the way Israel receives the $1.92 billion in military assistance contained in the bill, reducing the "early disbursal" amount by $407 million. In previous years, Israel received all of its military assistance funding within 30 days of enactment. The bill reduces this early disbursal amount to $1.5 billion.

Finally, the amendment appropriates an additional (1) $150 million for the International Development Association; (2) $50 million for the African Development Fund; and (3) $16 million for the Inter-American Investment Corporation. ***Staff Contact: Foreign Operations Subcommittee, x5-2041***

Additional Information: For information on H.R. 2606, the original FY 2000 Foreign Operations Appropriations Act, see *Legislative Digest*, Vol. XXVIII, #27, Pt. III, September 27, 1999; and #27, July 23, 1999.

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S. 900—Gramm-Leach-Bliley Act (Conference Report)

Floor Situation: The House will consider the conference report to S. 900 after it completes consideration of H.R. 3196. Conference reports are privileged and may be considered any time three days after they are filed; they are debatable for one hour and are subject to one motion to recommit. On Tuesday, the Rules Committee granted a rule waiving all points of order against the conference report and its consideration.

Summary: The conference report to S. 900 is designed to modernize the financial services industry by replacing outdated, Depression-era laws that separate banking from other financial services with a new system to enhance competition and increase consumer choice. The measure's main areas of reform are outlined below.

Regulatory Structure. The conference agreement repeals the anti-affiliation provisions of the 1933 Glass-Steagall Act (*P.L. 73-66*) and the 1956 Bank Holding Company Act (*P.L. 84-511*), therefore allowing financial companies to offer a broad array of financial products to their customers, including banking, insurance, securities, and other products—either through financial holding companies or through operating subsidiaries (these provisions are mostly similar to the House-passed bill).

Securities Functional Regulation. The conference agreement amends the 1934 Securities Exchange Act to provide functional regulation of bank securities activities (*i.e.*, as a general matter, securities activities will be regulated by the Securities and Exchange Commission). The measure repeals the "broker" and "dealer" exemptions that banks currently enjoy under federal law (with certain exemptions), thus subjecting banks to the same regulation as all other securities firms. It replaces the broad "broker" and "dealer" exemptions with more narrow exemptions to allow banks to continue to engage in current activities.

State Law and Insurance Sales. The conference report establishes state regulators as the appropriate functional regulators of insurance. States may regulate insurance activities only to the extent that the regulation does not "prevent or significantly interfere" with affiliations between banks and insurance firms or with bank insurance activities. However, the measure establishes 13 "safe harbor" areas in which a state may regulate a bank's insurance sales without being preempted. State laws enacted before September 3, 1998, that are not protected by the safe harbor may be challenged under the *Barnett* decision.

The measure prohibits national banks from underwriting insurance within the bank, but grandfathers existing activities. In addition, national banks and their subsidiaries may not engage in any activity involving the underwriting or sale of title insurance. However, the measure establishes a "parity" exception to this prohibition, whereby national banks may sell title insurance products anywhere state-chartered banks may do so. The measure grandfathers the existing title insurance activities of a national bank and its subsidiaries. However, it requires any title insurance underwriting activities to be "pushed out," first to an insurance affiliate, or if no affiliate exists, to any subsidiary providing insurance.

Thrift Charter. The conference agreement prohibits commercial entities from acquiring or establishing a thrift (*i.e.*, closing the loophole that allows a commercial company to purchase one thrift, hence the term "unitary thrift holding company") after May 4, 1999. The measure, however, grandfathers existing unitary thrift holding companies (UTHCs) and those entities that submitted applications before May 4 (*i.e.*, they may continue to engage in any commercial activity). Grandfathered UTHCs may be sold only to financial companies, not to commercial firms.

Financial Privacy. The conference report includes a number of provisions designed to protect consumer privacy. The measure requires financial institutions to disclose their policies for collecting and protecting confidential information. In addition, the measure allows consumers to "opt out" of information-sharing policies with unaffiliated third parties (*e.g.*, except for certain circumstances). The measure includes two major exceptions to this provision. Specifically, it (1) *does not* allow consumers to opt out of joint marketing agreements with other financial institutions (as long as the institution fully discloses such activity to its customers and requires the third party to maintain the confidentiality of such information); and (2) permits financial institutions to disclose customer information to unaffiliated third parties to market the institution's own products and services. The measure includes a number of other provisions designed to protect consumers' financial privacy.

Other Provisions. Finally, the conference agreement (1) provides regulatory relief to banks by generally requiring fewer Community Reinvestment Act (CRA) examinations for most banks with less than $250 million in assets unless they seek to merge, establish a new branch, or relocate; (2) includes a new "sunshine" requirement that requires banks and community groups to publicly disclose any CRA loan or grant agreements; (3) requires ATM operators to disclose certain surcharge fees to cardholders; (4) allows mutual insurance companies to transfer to another state and reorganize into a mutual holding company or stock company; (5) establishes the National Association of Registered Agents and Brokers as a non-profit private corporation to establish uniform licensing, appointment, and continuing education requirements for insurance agents; (6) clarifies the role of state insurance regulation over rental car insurance; and (7) makes a number of changes to the Federal Home Loan Bank System.

The House passed H.R. 10 by a vote of 343-86 on July 1. The Senate passed its version (S. 900) by a vote of 54-44 on May 6.

Views: The Republican leadership strongly supports passage of the conference report. An official Clinton Administration viewpoint was unavailable at press time. Unofficially, press reports have indicated that the president intends to sign the measure.

Additional Information: See *Legislative Digest*, #32, Pt. II, November 2, 1999; and #19, Pt. II, June 28, 1999.

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